

Summer 2004
Vol. 23, Issue 1

In this issue:

Page 1

Collision repairs - who really
is the customer?

Insurance fraud

Page 2

Avoid being an audit target

Do you need an original
repair facility registration?

Disposing of replaced parts:
Old parts must be saved in
disputes

Page 3

Disciplinary actions

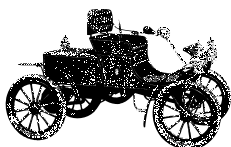
Spread the *News*

Page 4

Go online for the *Repair
Facility Manual*

Problems with crankcase
flushes

Review: Invoice
requirements



Secretary of State
Terri Lynn Land

Collision repairs - who really is the customer?

Who is the customer in insurance-paid repairs? Is it the vehicle owner, the insurance company or both?

In every repair transaction, the customer is the person who owns or operates the vehicle. Generally, a repair facility is not complying with the law if it gives an estimate to and receives authorization to do repairs only from an insurance company representative.

A customer, however, may give the insurance company signed authorization to contract for repairs. In that case, the repair facility complies with the law by providing the estimate only to the insurance company.

To avoid problems, keep the following points in mind when dealing with collision repairs:

- Allow insurers to obtain the required authorization from the customer *before* providing an estimate.
- You are not the insurance company's agent and are not responsible for obtaining the customer's permission allowing you to provide an estimate directly to the insurance company.
- Be sure the authorization has the

customer's signature before giving the estimate to the insurance company.

- If repairs are needed beyond the original estimate and they will cost more than \$10 or 10 percent, whichever is less, you must get approval from the customer. This is true even when the customer has given the insurance company signed authorization to accept the original estimate, unless it also allows the insurance company to approve additional repairs.

- Any changes or additional damages found later must be relayed to the customer even if they will be paid for by the insurance company. The customer must be given the opportunity to accept or deny any changes from the original estimate.

- The customer is entitled to the return of the replaced parts and to a detailed final bill.

Many insurance companies contact the Department of State when they believe collision shops commit fraud. The information is reviewed in the same manner as a consumer complaint and may result in an investigation. Such investigations have resulted in disciplinary action against several repair facilities.

Insurance fraud

Recent investigations of collision repair facilities revealed some disturbing instances of insurance fraud. Some of these shops departed from the original estimate without customer authorization and billed the insurance company for repairs not performed. They also charged for original equipment manufacturer (OEM) parts, but installed cheaper aftermarket parts; charged for new parts, but repaired the parts or installed used parts; and charged for parts or services not performed.

Other facilities falsely claimed that vehicle owners authorized changes with the understanding their deductible would be waived. When customers did agree to a change to avoid paying the deductible, investigators found the facilities made additional changes without customer approval. In all cases, insurance companies were billed for repairs not performed.

Insurance fraud is not a legitimate way to reduce a customer's bill or increase profits. The final invoice must reflect the actual repairs performed and the repair facility may only charge for that work.

Avoid being an audit target

The Bureau of Regulatory Services (BRS) routinely audits repair facility renewal applications for correct fee payments.

If you are asked to verify the renewal fee submitted, it will be necessary to provide documentation that shows how the fee was calculated. With the exception of businesses with a gross annual revenue that exceeds \$340,000, the gross annual revenue entered on line 8 of the registration renewal form should be an exact amount. Never leave line 8 blank or enter an estimated amount, such as \$100,000 or \$140,000. Failure to enter an amount or entering an estimate will increase the likelihood you will be audited.

How can your registration renewal fee be calculated **correctly** without needing help from an accountant or corporate attorney? The annual fee each repair facility is required to pay is based on the gross revenue obtained from the performance of motor vehicle repairs, including parts and goods sold in conjunction with repairs, for the **previous** federal income tax year. If the business has not completed a full federal income tax year, the fee is based on the reasonably anticipated gross revenue for the first full federal income tax year of operation.

What should and should not be included in gross annual revenue when calculating the fee due?

Include:

- The labor charges for motor vehicle repairs performed (customer paid and/or warranty repairs); and,
- All parts and materials sold in conjunction with repairs performed.

Do not include:


- Parts sold over the counter but not installed;
- Motor fuels or lubricants sold at the pump;
- Repairs performed on vehicles not required to be titled and registered (off-road vehicles);
- Vehicles sold; and,
- Miscellaneous items, such as candy or cigarettes.

If your business only performs motor vehicle repairs, an easy way to determine your facility’s gross annual revenue when filing a renewal application is to look at the previous year’s federal income tax return.

If you are an **individual owner**, the gross annual revenue is on Form 1040, Schedule C, line 1.

If your business is a **partnership**, gross revenue will be listed on Form 1065, Schedule C, line 1. **Corporate**-owned facilities will find the gross revenue listed on Form 1120, Schedule C, line 1.

If, in addition to performing motor vehicle repairs, your business sells vehicles or over-the-counter parts, repairs off-road vehicles or derives income from non-automotive repair-related items, these items should be deducted from gross revenue to establish the proper renewal fee.


Hopefully, this information will be helpful in calculating your gross annual revenue and in reducing the likelihood of being targeted for an audit. Questions regarding this subject should be directed to (517) 373-4868. 

.....

Do you need an original repair facility registration?

If you buy an existing repair facility or open a new one, you must file an application for an original repair facility registration.

The only exception is if you buy a Corporation or Limited Liability Company (LLC). In this case, if the entity is staying the same, you do not have to change or apply for a new registration. However, you do have to fill out and submit a Motor Vehicle Repair Facility Registration Change of Officer, Director, Stockholder Application.

You cannot legally operate under a registration issued to a previous owner. A repair facility registration is transferable to another address if the ownership of the business remains the same. If you need a registration application or want to change your officers or business address, please call (517) 636-6400. 

Disposing of replaced parts: Old parts must be saved in disputes

If a complaint is filed against your facility, replaced parts are valuable evidence to determine the facts of the case. Many facilities are exonerated of wrongdoing when an examination of the replaced parts disproves allegations. Facilities that fail to meet requirements for retaining the replaced parts are in violation of the Motor Vehicle Service and Repair Act. Review the following requirements:

- Facilities must save replaced parts for two business days *after the customer picks up the vehicle. This includes core parts* unless the customer authorizes immediate disposal of the parts.
- If the customer questions or raises a dispute about the repairs or charges within two business days after picking up the vehicle, the facility must hold any replaced parts in its possession *until the disputed matter is resolved.*
- If a dispute involves a replaced part that the customer has chosen not to remove from the facility, the facility must immediately affix a permanent mark to identify the part. This must be done in the customer’s presence if he or she is still at the facility.

Pay close attention to the italicized language in the bullet points above. It refers to requirements that are often misunderstood. To reiterate: *Replaced parts must be held for two business days after the customer picks up the vehicle.* Some facilities mistakenly believe they may dispose of the parts two business days after the repairs are completed.

In addition, facilities are required to hold replaced parts “*where there is a question or dispute raised by the customer within two business days with respect either to repairs or charges for repairs...*” (Rule 44). In other words, the parts must be retained if the facility receives a customer complaint within two business days.

Disciplinary actions

Since the last issue of the *Auto Repair News*, the Bureau of Regulatory Services has taken disciplinary actions resulting in two repair facility registrations being revoked and six repair facilities entering into probation agreements.

In addition, the bureau has revoked one mechanic certification, suspended two others and entered into probation agreements with four mechanics.

Repair Facility Actions

The following repair facilities were charged with violations and given the penalties noted:

• **Brighton Tire & Automotive** (F142463), 7200 W. Grand River, Brighton, 24-month probation, \$2,300 penalty. Charges: Charged for repairs not performed; performed repairs without a properly certified mechanic; performed unauthorized repairs or exceeded estimate without customer authorization; failed to hold replaced parts for two business days or until dispute resolved (two counts); failed to reveal a material fact (four counts); gave improper invoice (five counts); and failed to allow inspection of records during posted business hours.

• **David's Auto Repair** (F151105), 720 Lincoln Rd., Otsego, 24-month probation, \$150 penalty. Charges: Falsely represented that repairs were necessary; performed unnecessary repairs; and performed repairs without a properly certified mechanic.

• **Fred & Sons 1 Collision, Inc.** (F143621), 17600 Livernois, Detroit, 24-month probation, \$3,500 penalty. Charges: Departed from or disregarded accepted motor vehicle repair industry standards; made an untrue or misleading statement of a material fact; and misrepresented a part as new or of a certain manufacture.

• **KDS Automotive, Inc.** (F144222), 31330 Ford Rd., Garden City, 24-month probation, \$1,000 penalty. Charges: Charged for repairs not performed; made an untrue or misleading statement of a material fact; and continued in operation without renewal of registration.

• **Lee's All Automotive, Inc.** (F125064), 2607 E. Grand River, Howell, amended probation agreement, signs posted. Charges: Violated terms of a cease and desist order or a condition of a probation agreement; barred customer from reclaiming replaced part; failed to do repairs in promised or reasonable period of time; performed unauthorized repairs or exceeded estimate without customer authorization (two counts); and failed to hold part for two days or until dispute resolved.

• **M-89 Quality Mufflers & Brakes** (F147864), 1211-1/2 B M-89, Plainwell, revocation of registration. Charges: Charged for repairs not performed; made an untrue or misleading statement of a material fact (two counts); failed to give a written invoice (four counts); performed repairs without a properly certified mechanic (six counts); and failed to reveal a material fact (six counts).

• **Moore & Peterson Enterprises, Inc. d/b/a US 1 Transmissions** (F139719), 12132 Gratiot, Detroit, 24-month probation, \$1,728 penalty. Charges: Failed to give written invoice after repairs (12 counts); failed to do repairs in promised or reasonable period of time (nine counts); and performed repairs without a properly certified mechanic (two counts).

• **Mr. Computer** (F151066), 90 Portage, Highland Park, revocation of registration and denial of any future application. Charges: Performed repairs without a properly certified mechanic (15 counts); charged for repairs not performed (three counts); failed to maintain records for required period of time (11 counts); improper invoice (23 counts); failed to honor an express warranty (two counts); failed to reveal a material fact (19 counts); used improper warranty terms (two counts); and failed to do repairs in promised or reasonable period of time (four counts).

• **Top Notch Enterprises LLC** (formerly Top of the Hill of Montrose) (F151966/F156501), 9210 Vienna Rd., Montrose, 24-month probation, pending application processed. Charges: Charged for repairs not performed; and gave improper invoice (three counts).

During the same period, nine repair facilities signed Assurance of Discontinuance agreements.

Mechanic Actions

The following mechanics were charged with violations of the law and given the penalties noted:

• **Randall D. Combs** (T195057), 4104 Crooked Tree SW, Wyoming, 24-month probation. Charges: Performed repairs without proper mechanic certification (eight counts); and hindered, obstructed, or otherwise prevented an inspection by providing false information to representatives (three counts).

• **Jeffrey D. Harmon** (M211544), 828 Winston, Monroe, suspension of mechanic certificate until Rescission Order received from court. Charges: Noncompliance with the Support and Parenting Time Enforcement Act.

• **Steven M. Herman** (M148552), 59445 Foxpointe Lane, South Lyon, 24-month probation, \$787 restitution to customer. Charges: Made untrue or misleading statement of a material fact.

• **Robert E. Hill** (M185479), 623 Jefferson St., Jackson, suspension of mechanic certificate until Rescission Order received from court. Charges: Noncompliance with the Support and Parenting Time Enforcement Act.

• **Frank Chance Lorenz** (M235491), 7012 Ingleside Ave., Flint, 24-month probation, pending application processed. Charges: Falsely represented that repairs were necessary; and performed repairs without proper mechanic certification.

• **Gregory Parker** (M184043), 90 Portage, Highland Park, revocation of mechanic certificate and denial of any future application. Charges: Departed from or disregarded accepted motor vehicle repair industry standards; performed, or inspected and approved, repair service without proper certification (12 counts); and performed, or inspected and approved, repairs with expired certificate (9 counts).

• **Mark H. Zilska** (M193630), 15082 Heybosk, Kentwood, 24-month probation, \$225 penalty. Charges: Falsely represented that repairs were necessary.

During the same period, seven mechanics signed Assurance of Discontinuance agreements.

Spread the News

The *Auto Repair News* is published by the Department of State to inform repair facilities of rules, disciplinary hearings, orders, judgments issued or obtained, and suspensions or revocations of registrations or licenses. It is mailed to all registered repair facilities and posted on the department's Web site at www.Michigan.gov/sos under "Services to Businesses."

The law requires repair facilities to inform mechanics of these actions. This requirement can be met by circulating the *Auto Repair News* among employees or making a copy for each employee.

Go online for the *Repair Facility Manual*

The *Repair Facility Manual* is now available only online. You will find it at www.Michigan.gov/sos under “Services to Businesses”--“Publications and Forms.” Please remember to check regularly for manual updates. When you go online, the information you need is always at your fingertips!

Problems with crankcase flushes

Make sure the tools, equipment and products you use for crankcase flushes are compatible with the vehicle manufacturer’s specifications.

General Motors Corp. has issued a Technical Service Bulletin reporting that damage caused to engine seals and bearings due to the use of equipment and products not compatible with GM parts will not be covered under the manufacturer’s warranty.

Mechanics are responsible for performing all repairs according to industry standards. When a repair results in damage to the consumer’s vehicle, the facility is usually held responsible for corrective repairs.

Review: Invoice requirements

The Motor Vehicle Service and Repair Act requires that a written statement (or invoice) be presented to the customer upon return of a vehicle. Bureau investigations and inspections indicate that, while most facilities understand that an invoice is required, many fail to provide an invoice containing all of the information about the repair required by law.

All information on your invoices must be written or typed legibly and include the following information:

- The repairs requested by the customer;
- The repairs needed as determined by the facility;
- The repairs authorized by the customer;
- The facility’s estimate of repairs;
- The actual cost of repairs;
- The repairs or services performed, including a detailed identification of all parts that were replaced, and a specification as to which were new, used, rebuilt, or reconditioned;
- The name and certification number of all mechanics who worked on the vehicle; and,
- A certification that repairs were completed properly or a detailed explanation of an inability to complete repairs properly.

Repairs: The invoice must list all repairs in a manner that identifies whether a repair was

requested by the customer or authorized after the repair was recommended by the facility. The invoice must show the facility’s estimated cost of repairs and the actual cost. Repairs recommended by the facility must also be reported on the invoice, even if the customer declines the repair.

Detailed identification of all parts and labor: Parts must be identified on the invoice. A part number alone or facility-created code is not a sufficient description. Use the part names. Labor must also be detailed sufficiently to identify the services performed.

Mechanic names: The names of all mechanics who worked on the vehicle must be reported on the invoice, along with certification numbers, if applicable. This includes non-certified mechanics doing minor repairs which do not require mechanic certification.

Certification: The invoice must include a certification, signed by the facility owner or a person designated by the owner, that all repairs were completed properly or a detailed explanation of an inability to complete repairs properly. The certification must be signed after the repairs are completed and may not be preprinted on the invoice.

